REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32M .0109

DEADLINE FOR RECEIPT: Friday, July 9, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (b)(5)(A), line 32, to be consistent with Rule 21 NCAC 36 .0809, I suggest deleting the comma after "patient"

In (b)(6)(C), Page 2, line 3, again to be consistent with Rule 21 NCAC 36 .0809, do you want to state, "shall mean a:"?

In (b)(6)(E), line 15, please change "and/or" to "or"

Also on line 15, what is the difference between a physical and sexual relationship here?

On line 16, what is an "emotional intimate" relationship? Do you mean "emotionally" intimate? And who will determine this?

In the History Note, consider adding a citation to G.S. 90-18(c)(14).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 24, 2021

21 NCAC 32M .0109 is amended as published in 35:18 NCR 2061-2062 as follows:

21 NCAC 32M .0109 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.

(b) Prescribing and dispensing stipulations are as follows:

(1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0110(2) of this Section.

(2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed, or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:

(A) the nurse practitioner has an assigned DEA number that is entered on each prescription for a controlled substance;

(B) refills may be issued consistent with Controlled Substance laws and regulations; and

(C) the primary supervising physician(s) ~~possesses the same~~ shall possess a schedule(s) of controlled substances ~~as~~ equal to or greater than the nurse practitioner's DEA registration.

(3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:

(A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and

(B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and signed by the nurse practitioner and the physician.

(4) Each prescription shall be noted on the patient's chart and include the following information:

(A) medication and dosage;

(B) amount prescribed;

(C) directions for use;

(D) number of refills; and

(E) signature of nurse practitioner.

(5) Prescription Format:

(A) All prescriptions issued by the nurse practitioner shall contain ~~the supervising physician(s) name,~~ the name of the patient, and the nurse practitioner's ~~name,~~ name and telephone ~~number, and approval number.~~ number;

(B) The nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.

(6) A nurse practitioner shall not prescribe controlled substances, as defined by the State and Federal Controlled Substances Acts, for the following:

(A) nurse practitioner's own use;

(B) nurse practitioner's supervising physician;

(C) a member of the nurse practitioner's immediate family, which shall mean:

(i) spouse;

(ii) parent;

(iii) child;

(iv) sibling;

(v) parent-in-law;

(vi) son or daughter-in-law;

(vii) brother or sister-in-law;

(viii) step-parent;

(ix) step-child; or

(x) step-siblings;

(D) any other person living in the same residence as the licensee; or

(E) anyone with whom the nurse practitioner is having a ~~sexual~~ physical, sexual, and/or emotional intimate relationship.

(c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 46 .1703 that is hereby incorporated by reference including subsequent amendments.

History Note: *Authority G.S. 90-18.2;*
Eff. February 1, 1991;
Recodified from 21 NCAC 32M .0106 Eff. January 1, 1996;
Amended Eff. December 1, 2012; April 1, 2011; November 1, 2008; August 1, 2004; May 1, 1999; January 1, 1996; September 1, 1994; March 1, 1994;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;
Amended Eff. August 1, 2021; March 1, 2017.

21 NCAC 32M .0117 is amended as published in 34:21 NCR 1982-1981 as follows:

21 NCAC 32M .0117 REPORTING CRITERIA

(a) The Department of Health and Human Services ("Department") may report to the North Carolina Board of Nursing ~~("Board of Nursing")~~ ("Board") information regarding the prescribing practices of those nurse practitioners ("prescribers") whose prescribing:

(1) falls within the top two percent of those prescribing 100 morphine milligram equivalents ("MME") per patient per day; or

(2) falls within the top two percent of those prescribing 100 MMEs per patient per day in combination with any benzodiazepine and who are within the top one percent of all controlled substance prescribers by volume.

(b) In addition, the Department may report to the Board ~~of Nursing~~ information regarding prescribers who have had two or more patient deaths in the preceding 12 months due to opioid poisoning where the prescribers authorized more than 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

(c) In addition, the Department may report to the Board information regarding prescribers who meet three or more of the following criteria, if there are a minimum of five patients for each criterion:

(1) at least 25 percent of the prescriber's patients receiving opioids reside 100 miles or greater from the prescriber's practice location;

(2) the prescriber had more than 25 percent of patients receiving the same opioids and benzodiazepine combination;

(3) the prescriber had 75 percent of patients receiving opioids self-pay for the prescriptions;

(4) the prescriber had 90 percent or more of patients in a three-month period that received an opioid prescription that overlapped with another opioid prescription for at least one week;

(5) more than 50 percent of the prescriber's patients received opioid doses of 100 MME or greater per day excluding office-based treatment medications; and

(6) the prescriber had at least 25 percent of patients who used three or more pharmacies within a three-month period to obtain opioids regardless of the prescriber.

(d) The Department may submit these reports to the Board ~~of Nursing~~ upon request and may include the information described in G.S. 90-113.73(b).

(e) The reports and communications between the Department and the Board ~~of Nursing~~ shall remain confidential pursuant to ~~G.S. 90-16 and~~ G.S. 90-113.74.

History Note: *Authority G.S. 90-5.1(a)(3); 90-113.74;*
Eff. April 1, 2016;
Amended Eff. August 1, 2021; ~~May 1, 2018;~~ May 1, 2018.